



June 15, 1999

Mr. Christopher R. Scott
Corporate Counsel
State Bar of Texas
P.O. Box 12487
Austin, Texas 78711-2487

OR99-1658

Dear Mr. Scott:

You ask whether certain information is subject to required public disclosure under the Texas Public Information Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 124190.

The State Bar of Texas (the "State Bar") received a request for a copy of the requestor's "complete file." You state that the State Bar has already provided the requestor with some responsive information including several court documents. You assert that the remaining documents, exhibits 4 and 5, are confidential under rule 15.10 of the Texas Rules of Disciplinary Procedure. In the alternative you contend that the documents are excepted from disclosure under the act pursuant to sections 552.103 and 552.111 of the Government Code.¹

Section 81.033(a) of the Government Code provides

All records of the state bar, except for records pertaining to grievances that are confidential under the Texas Rules of Disciplinary Procedure, and records pertaining to the Texas Board of Legal Specialization, are subject to Chapter 552.

Rule 15.10 of the Texas Rules of Disciplinary Procedure provides

All communications, written and oral, and all other materials and statements to or from the Commission, Chief Disciplinary Counsel, the

¹Part II of the Rules of Disciplinary Procedure, including Rule 2.09 and Rule 2.16, requires certain notices and records to be provided to the Respondent. The exceptions you raise do not protect from disclosure to this requestor documents that the Rules of the Disciplinary Procedure require to be released to him.

Complainant, the Respondent, and others directly involved in the filing, screening, investigation, and disposition of Inquiries and Complaints are absolutely privileged.

Tex. R. Disciplinary P. 15.10, *reprinted in* Gov't Code Ann., tit. 2, subtit. G app. A-1. We have reviewed the documents at issue and agree that they are privileged under rule 15.10. The term "absolutely privileged" in rule 15.10 is synonymous with the term "confidential" in section 81.033. *See, e.g.,* Attorney General Opinion JM-1235 (1990), Open Records Decision Nos. 384 (1983), 375 (1983). Therefore, the documents at issue are confidential under the Texas Rules of Disciplinary Procedure and are not subject to disclosure under the act. Gov't Code § 81.033.²

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/ch

Ref.: ID# 124190

Encl. Submitted documents

²We note that the Texas Supreme Court recently ruled that the Unauthorized Practice of Law Committee (the "UPL Committee") is a "judicial agency" as defined by Rule 12.2(b) of the Texas Rules of Judicial Administration, and that all records of the UPL Committee are "judicial records" as defined by Rule 12.2(d). Order Vacating September 16, 1986 Order Concerning the Confidentiality of Records of the Unauthorized Practice of Law Committee, Misc. Docket No. 99-9082 (Tex. April 15, 1999) (referenced in *In re Nolo Press/Folk Law, Inc.*, No. 98-0724 (Tex. April 15, 1999) (orig. proceeding)). Thus, records of the UPL Committee are subject to Rule 12 of the Texas Rules of Judicial Administration, not the Public Information Act. The Supreme Court did not consider how Rule 12 would apply to specific records of the UPL Committee and did not discuss section 81.033 of the Government Code. The records at issue here are records of the State Bar's Chief Disciplinary Counsel, not the UPL Committee.

cc: Mr. Seferino C. Dominguez
2349 Las Cruces Lane
Dallas, Texas 75227
(w/o enclosures)